

BANK INDONESIA REGULATION
NUMBER: 6/20/PBI/2004
CONCERNING
THE AMENDMENT OF BANK INDONESIA REGULATION
NUMBER 5/13/PBI/2003 CONCERNING NET OPEN POSITION FOR
COMMERCIAL BANKS

THE GOVERNOR OF BANK INDONESIA,

- Considering :
- a. whereas to sustain the integrity and stability of the financial system as well as the nation's economy, it is necessary to have in place exchange rate stability;
 - b. whereas to attain exchange rate stability, it is necessary to prescribe regulation on managing risks associated with foreign currency transaction conducted by banks;
 - c. whereas one important factor in managing risks associated with foreign currency transactions is the size of net open position allowed to be retain by banks, observed from both on balance sheet and off balance sheet foreign currency compositions, as well as from the period of the net open position calculation both at the end business day and at the middle of business day;
 - d. now therefore it is deemed necessary to amend Bank Indonesia Regulation Number 5/13/PBI/2003 concerning The Net Open Position for Commercial Banks;

- In view of : 1. Act Number 7 of 1992 concerning Banking (State Gazette of the Republic of Indonesia Number 31 of 1992, Supplement to the State Gazette Number 3472) as amended by Act Number 10 of 1998 (State Gazette of the Republic of Indonesia Number 182 of 1998, Supplement to the State Gazette Number 3790);
2. Act Number 23 of 1999 concerning Bank Indonesia (State Gazette of the Republic of Indonesia Number 66 of 1999, Supplement to the State Gazette Number 3843) as amended by Act Number 3 of 2004 (State Gazette of the Republic of Indonesia Number 7 of 2004, Supplement to the State Gazette Number 4357);
3. Bank Indonesia Regulation Number 5/12/PBI/2003 concerning the Minimum Capital Requirement for Commercial Banks Taking Account of Market Risk (State Gazette of the Republic of Indonesia Number 83 of 2003, Supplement to the State Gazette Number 4306);
4. Bank Indonesia Regulation Number 5/13/PBI/2003 concerning The Net Open Position for Commercial Banks (State Gazette of the Republic of Indonesia Number 84 of 2003, Supplement to the State Gazette Number 4307);

HAS DECREED:

To enact : THE BANK INDONESIA REGULATION CONCERNING THE AMENDMENT OF BANK INDONESIA REGULATION NUMBER 5/13/PBI/2003 CONCERNING NET OPEN POSITION FOR COMMERCIAL BANKS.

Article I

Amends several provisions in Bank Indonesia Regulation Number 5/13/PBI/2003 concerning Net Open Position for Commercial Banks as follows:

1. The Provisions of Article 1 number 1 and number 2 are amended and added with 1 (one) new provision that is number 4 (four), so that in their entirety Article 1 read as follows:

“Article 1

The terminology used in this Bank Indonesia Regulation has the following meanings:

1. Bank is a Commercial Bank as defined in Act Number 7 of 1992 concerning Banking as amended by Act Number 10 of 1998, licensed by Bank Indonesia to conduct banking activities in foreign currencies, including a branch office of a foreign bank.
2. Capital is tier 1 and tier 2 capitals as referred to in prevailing Bank Indonesia Regulation concerning the Minimum Capital Requirement for Commercial Banks at position of the end of previous month.
3. Closing Rate is the middle rate according to Reuters at 16.00 pm Jakarta Time each day as may be seen at the Money Market Information Center.
4. Mid-Day Rate is the middle rate according to Reuters at 12.00 pm Jakarta Time each day.”

2. The Provisions of Article 2 are amended in their entirety so that they read as follows:

“Article 2

- (1) Banks are required to maintain a Net Open Position as follow:
 - a. no more than 20% (twenty percent) of Capital overall; and
 - b. no more than 20% (twenty percent) of Capital for on balance sheet position,
at the mid of business day and the end of business day.
- (2) Overall Net Open Position as referred to in paragraph (1) letter a is the sum of the absolute values of:
 - a. the net difference between assets and liabilities in all foreign currencies recorded on the balance sheet; plus
 - b. the net difference between claims and liabilities, comprising both commitments and contingencies, in all foreign currencies recorded in off balance sheet accounts,
all of which are expressed in rupiahs.
- (3) Net Open Position for on balance sheet position as referred to in paragraph (1) letter b is the sum of the absolute values of the net difference between assets and liabilities in all foreign currencies recorded on the balance sheet, which are expressed in Rupiahs.
- (4) Assets in foreign currencies as referred to in paragraph (2) letter a and paragraph (3) consist of cash, gold, demand deposits (including demand deposit at Bank Indonesia), deposits on call, time deposits, negotiable certificates of deposit, margin deposits, securities, loans, net value of negotiated export drafts, interoffice asset accounts and other claims, in foreign currency from both residents or non-residents.

- (5) Liabilities in foreign currencies as referred to in paragraph (2) letter a and paragraph (3) consist of demand deposits, deposits on call, time deposits, certificates of deposit, margin deposits, borrowings, import guarantees, interoffice liabilities and other liabilities in foreign currency to both residents and non-residents.
 - (6) Off balance sheet items as referred to in paragraph (2) letter b are items in foreign currency that may generate claims and/or liabilities at a future date, whether commitments and contingencies, encompassing bank guarantees and L/Cs confirmed as liability of the Bank after subtraction for margin deposits, spot transactions, and derivative transactions including but not limited to forward transactions, options, and futures, and similar products for both residents and non-residents.”
3. The Provisions of Article 3 paragraph (1) are amended so that Article 3 in their entirety read as follows:

“Article 3

- (1) In the case of Banks having met the criteria for mandatory compliance with the Minimum Capital Requirement taking account of Market Risk in accordance with prevailing regulations, the requirement for maintenance of Net Open Position are as follows:
 - a. no more than 30% (thirty percent) of Capital overall;
 - b. no more than 30% (thirty percent) of Capital for on balance sheet position,
at the mid of business day and the end of business day.
- (2) For as long as the provisions concerning the Minimum Capital Requirement Taking Account of Market Risk are not in force with effect, Banks as referred to in paragraph (1) shall continue to be required to comply with the Net Open Position as referred to in Article 2 paragraph (1).

- (3) Banks are required to maintain the Net Open Position on an intraday basis on the basis of prudential principles.”

4. Adding new provisions between Article 3 and Article 4 that is Article 3A, which read as follows:

“Article 3A

The maintenance of the Net Open Position as referred to in Article 2 and Article 3 is calculated on a consolidated basis as follows:

- a. For a Bank incorporated as an Indonesian legal entity, the maintenance of the Net Open Position shall encompass all domestic and overseas branch offices.
- b. For a foreign bank branch, the maintenance of the Net Open Position shall encompass all its offices in Indonesia.”

5. The Provisions of Article 7 are amended in their entirety so that Article 7 read as follows:

“Article 7

- (1) Banks are required to submit truthful reports on the end of day Net Open Position on a regular basis to Bank Indonesia.
- (2) The procedure for formulation and submission of reports as referred to in paragraph (1) shall refer to the prevailing Bank Indonesia regulations concerning Commercial Bank Periodic Reports.
- (3) Banks are required to bring the Formulation of Commercial Bank Periodic Reports for the Net Open Position Report into conformity with this Bank Indonesia Regulation.”

6. Add new provisions between Article 7 and Article 8 that is Article 7A, which read as follows:

“Article 7A

- (1) Banks are required to administer the mid-day Net Open Position report in accordance to the period and maturity stipulated for the end of day Net Open Position reports.
- (2) Bank Indonesia may request the report as referred to in paragraph (1) if needed.”

7. The Provisions of Article 8 are amended in their entirety so that Article 8 read as follows:

“Article 8

- (1) Banks are required to formulate reports for the end of day Net Open Position using the Closing Rate.
- (2) Banks are required to formulate reports for the mid of day Net Open Position using the Mid-Day Rate.
- (3) In the event that the Closing Rate and the Mid-Day Rate as referred to in paragraph (1) and paragraph (2) are not available for a particular foreign currency, the Bank may use the crossing rate formed at the same time as the Closing Rate and the Mid Day Rate.”

8. Add new provisions between Article 9 and Article 10 that is Article 9A, which read as follows:

“Article 9A

A Bank which at the date of enactment of this Bank Indonesia Regulation has a Net Open Position for on balance sheet position exceeding the provision referred to in Article 2 paragraph (1) letter b shall be required to decrease and bring into compliance its on balance sheet Net Open Position with this Bank Indonesia Regulation no later than September 1, 2004.”

9. The Provisions of Article 10 are amended, so that they read as follows:

“Article 10

Any violation of the provisions in Article 2 paragraph (1), Article 3 paragraph (1), Article 6 paragraph (4), Article 7A paragraph (1) and Article 9A shall be subject to administrative sanctions as referred to in Article 52 of Act No. 7 of 1992 concerning Banking as amended by Act No. 10 of 1998, including but not limited to:

- a. written warning;
- b. affecting the rating of the Bank;
- c. freezing of specified business operations;
- d. listing of members of the management, Bank employees, and shareholders in the list of persons prohibited from becoming owners and managers of Banks;
- e. dismissal of the Bank Management and thereafter the appointment of caretaker management until a General Meeting of Shareholders or a Meeting of Cooperative Members appoints a permanent replacement with the approval of Bank Indonesia.”

Article II

This Bank Indonesia Regulation shall come into force on August 2, 2004

Enacted in Jakarta

Dated: July 15, 2004

On behalf of THE GOVERNOR OF
BANK INDONESIA

(signed)

ANWAR NASUTION
SENIOR DEPUTY GOVERNOR

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 61 OF
2004
DPNP/DPD

ELUCIDATION
TO
BANK INDONESIA REGULATION
NUMBER: 6/20/PBI/2004
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I. GENERAL REVIEW

In consideration of national economic stability and for the purpose of maintaining the integrity and stability of the financial system, it is necessary to have in place exchange rate stability. Exchange rate stability can be achieved among others by prescribing regulations concerning the size of net open position held by Banks.

In this regard, through this regulation several amendments are made to existing provisions, which encompass foreign exchange composition held by Banks as well as the timing of Net Open Position calculation.

In view of foreign exchange composition, the net open position held by banks shall cover not only the overall position (on balance sheet and off balance sheet) but include on balance sheet position as well. In view of timing, net open position held by banks shall not only be calculated at the end of business day using the closing rate but also calculated at the middle of business day using the mid-day rate.

ARTICLE BY ARTICLE

Article I

Number 1

Article 1

Self-explanatory.

Number 2

Article 2

Paragraph (1)

Mid of business day is at 12.00 pm local time where the head office is located.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

The assets value used shall be book value, namely value after subtraction by allowance for earning assets losses formed in the same currency.

The definition of other claims includes but is not limited to equity participation in foreign currency, fixed assets of overseas branch offices (after depreciation), accrued interest, acceptance claims, reverse repo transactions, and derivative transactions. Interoffice asset accounts for a branch office of a foreign bank are all interoffice asset accounts with overseas offices, including those calculated as components of capital (Operating Funds).

Paragraph (5)

Foreign currency liabilities include other comprehensive income from securities in foreign currencies other than shares.

The definition of other liabilities includes but is not limited to accrued expense, acceptance liabilities, repo transactions, and derivative liabilities.

Interoffice liabilities accounts for a branch office of a foreign bank are all interoffice liabilities accounts from the overseas office, including those calculated as components of capital (Operating Funds).

Paragraph (6)

The value calculated for off balance sheet accounts is book value, namely value after deduction for allowance for earning asset losses formed in the same currency.

Number 3

Article 3

Paragraph (1)

The prevailing regulation at this time is PBI No. 5/12/PBI/2003 concerning the Minimum Capital Requirement for Commercial Banks Taking Account of Market Risk.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Number 4

Article 3A

Self-explanatory

Number 5

Article 7

Self-explanatory.

Number 6

Article 7A

Self-explanatory

Number 7

Article 8

Self-explanatory.

Number 8

Article 9A

Self-explanatory

Number 9

Article 10

Letter a

Sanctions in the form of written warning includes revocation of approval for exemption of structural positions as referred to in Article 6.

Letter b through letter e

Self-explanatory.